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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ITT MANUFACTURING ENTERPRISES LLC
(a Delaware Limited Liability Company); and
ITT CORPORATION (an Indiana Corporation),

Plaintiffs,

v.

US ITT MACHINERY LIMITED (a New York
corporation),

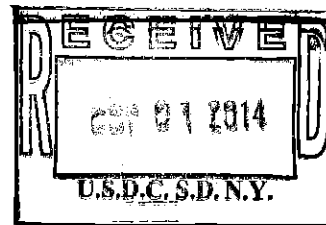
Defendant.
----- X

14 CV 7941

JUDGE KARAS

Case No.

**COMPLAINT AND JURY TRIAL
DEMAND**



ITT Manufacturing Enterprises LLC and ITT Corporation (hereinafter collectively "Plaintiffs"), by and through their counsel, McGuireWoods LLP, bring this action for federal trademark infringement, counterfeiting, trademark dilution, cyberpiracy and unfair competition in violation of the Lanham Act, trademark dilution and use of name or address with intent to deceive under New York State law, and common law trademark infringement and unfair competition by the above named Defendant. In support of this complaint, Plaintiffs allege and states as follows:

INTRODUCTION

1. This proceeding arises from Defendant's incorporation as US ITT Machinery Limited in the United States and use of that corporate name to infringe Plaintiffs' well-known

ITT[®] trademark, impersonate Plaintiffs, and otherwise trade on the goodwill of Plaintiffs, all in furtherance of a counterfeiting enterprise based primarily in China and Hong Kong.

2. On information and belief, Hu Yuzhu, a former employee of Plaintiffs based in China or Hong Kong, has conspired with one or more individuals in the United States to form Defendant corporation US ITT Machinery Limited using false name and address information that cannot be traced to real persons and residences. Plaintiffs reserve the right to amend this complaint to name Mr. Yuzhu and such individuals personally at a later time.

3. Defendant has used and is using the trade name US ITT Machinery Limited as a basis to represent in informational materials and in markings on products, including pumps, that Defendant or its affiliates are associated with Plaintiffs.

4. Information materials and goods marked with “US ITT” with or without concurrent use of Plaintiffs’ ITT[®] mark are calculated to confuse consumers as to the origin of such information materials and goods, because viewers or purchasers of such information materials and goods outside the United States are likely to assume that “US ITT” refers to Plaintiffs (who are based in the “US” and who are known generally as “ITT” to consumers) as the source of such goods and information.

5. To further the likelihood of confusion and misrepresent the relationship with Plaintiffs, Defendant and its affiliates use and have used not only the ITT[®] mark and the infringing mark US ITT in informational materials, but such materials also recite fictitious accounts of the “history” of US ITT that mirror the actual history of Plaintiffs and display other marks and product photographs affiliated with Plaintiffs.

THE PLAINTIFFS

6. ITT Manufacturing Enterprises LLC, formerly ITT Manufacturing Enterprises Inc. prior to a change of name and entity type in 2011, (hereinafter “ITTMEL”) is a limited liability company organized and existing under the laws of the State of Delaware with an office at 1105 North Market Street, Wilmington, Delaware 19801.

7. ITTMEL is a wholly owned subsidiary of ITT Corporation (hereinafter “ITTC”), a corporation organized and existing under the laws of the State of Indiana, having a principal place of business at 1133 Westchester Avenue, White Plains, New York 10604. Until the late 1980’s, a predecessor of ITTC (also known as ITT Corporation) had an office at 320 Park Avenue, New York, NY.

8. ITTC is registered as a foreign business corporation with the New York Department of State.

9. Plaintiffs are the owners of the trademark and service mark **ITT®**, registrations therefor, the trade name ITT, and numerous subsidiaries with ITT-formative names (collectively “the **ITT®** mark”), as detailed further herein.

10. ITTC uses the **ITT®** mark under license from ITTMEL, with all use inuring to the benefit of ITTMEL.

11. ITTC is a high-technology engineering and manufacturing company with numerous subsidiaries and affiliates. ITTC, its subsidiaries and affiliates employ over 9,000 employees worldwide.

12. In 2011, ITTC underwent a transformation and restructuring that split the company into three parts. ITTC’s former Defense Electronics and Services business unit was spun off to form Exelis Inc. (“Exelis”); certain water-focused businesses were spun off to form Xylem Inc.

(“Xylem”); and the remaining business units were reorganized into four value centers:

Interconnect Solutions, Control Technologies, Motion Technologies, and Industrial Process.

13. ITTC’s Interconnect Solutions value center manufactures highly engineered connectors for harsh environments in aerospace, industrial, oil and gas, medical, military and transportation markets, all of which are used in connection with the **ITT®** mark.

14. ITTC’s Control Technologies value center manufactures highly engineered aerospace components and industrial products in the energy absorption and motion control markets, all of which are used in connection with the **ITT®** mark.

15. ITTC’s Motion Technologies value center manufactures highly engineered and durable brake pads, shock absorbers and damping technologies for the automotive and rail markets, all of which are used in connection with the **ITT®** mark.

16. ITTC’s Industrial Process value center manufactures industrial pumps, valves, monitoring and control systems and provides aftermarket services for the chemical, oil and gas, mining, pulp and paper, power, and biopharmaceutical markets, all of which are used in connection with the **ITT®** mark.

17. ITTMEL licenses the **ITT®** mark to ITT Educational Services, Inc., who operates a private college system in the United States focused on technology-oriented programs of study, known commercially as ITT Technical Institute a/k/a ITT Tech. On information and belief, ITT Educational Services operates over 140 ITT Tech locations in over 38 states, with approximately 70,000 students nationwide.

18. ITTMEL licenses Karcher AG, a German entity, to use the **ITT®** mark in Germany in connection with televisions, audio products and accessories.

19. ITTMEL owns over 600 valid trademark and service mark registrations for the **ITT**[®] mark in various forms in over 100 countries and jurisdictions throughout the world, including over 40 registrations in the United States, 26 in China, and 8 in Hong Kong.

20. Selected registrations, copies of the registration certificate, proofs of maintenance, and current USPTO database records are attached as Exhibit 1 for the following representative U.S. registrations:

- a. U.S. Registration No. 1,372,168 for **ITT**, registered November 26, 1985, claiming a date of first use in commerce at least as early as 1965, in connection with pumps in International Class 7, namely:

pumps - namely, centrifugal pumps, self-priming centrifugal pumps, diaphragm pumps, self priming centrifugal trash pumps, solid handling vortex pumps, swimming pool pumps, centrifugal and submersible pumps for the mining industry, slurry, sludge and slit pumps

- b. U.S. Registration No. 3,108,719 for **ITT** in standard characters, registered June 27, 2006, and claiming a date of first use in commerce at least as early as 1965 for the earliest used classes of goods, in connection with numerous goods and services in International Classes 6, 7, 9, 11, 12, 35, 37, 38, 40 and 42, including:

pumps and valves in class 7, namely:

pumps, namely, centrifugal pumps, positive displacement pumps, submersible pumps and pump motors, flexible impeller pumps, vane pumps, macerator pumps, bilge pumps, engine cooling pumps, oil drain pumps, diaphragm pumps, solids handling pumps, vacuum pumps, split case pumps, self-priming pumps, sludge pumps, process pumps, stock pumps, magnetic drive pumps, chemical service pumps, slurry pumps, corrosive service pumps, fire pumps, boiler feed pumps, peripheral pumps, self-priming pumps, drum pumps, close-coupled pumps, surface irrigation pumps, circulating pumps, machine pumps, airlift pumps, and related parts, fittings, and accessories, namely, pump monitoring gauges, shafts for pumps, pump motor couplings, pump and pump motor bearings, pump seals, gaskets for pumps, pump lantern rings, pump impellers; water pumps for pools, spas, whirlpools, wastewater

treatment applications, heating, cooling, ventilation, and air conditioning applications, and general domestic, commercial, agricultural, marine, and industrial uses; valves being parts of machines, namely, knife gate valves, slide gate valves, diaphragm valves, ball valves, pneumatic valves, fuel valves, custom fabricated valves, burner safety shut-off valves, butterfly valves, diverter valves, sample and bleed valves, zero static valves, bypass valves; pumps for heating, cooling, ventilation, and air conditioning; pumps for use in water and wastewater filtration systems; pneumatic, hydraulic, and electrohydraulic valve actuators; linear actuators; diaphragm actuators; marine products, namely, bilge pumps, sump pumps, lever pumps, portable pumps, live well/aerator pumps; winches; pump control valves

and on-line services in class 35, including, *inter alia*:

providing consumer information and advice via the world wide computer network regarding the use, maintenance, and repair of fluid handling control and transfer products and equipment

- c. U.S. Registration No 2,705,032 for ITT in the stylized form shown below, (the “Engineered Blocks ITT Mark”):



claiming first use at least as early as September 1998, and registered on April 8, 2003 in connection with numerous goods and services in International Classes 7, 9, and 11, including pumps in class 7 and 11, namely:

self-priming pumps, centrifugal pumps, single phase pump, close coupled pumps, submersible pumps (class 7);

lifting stations waste water pumps, heating installation pumps (class 11).

- d. U.S. Registration No 2,481,202 for the Engineered Blocks ITT Mark claiming first use at least as early as September 14, 1998, and registered August 28, 2001, in

connection with numerous goods and services in International Classes 6, 7, 8, 9, 11, and 17, including pumps and valves in classes 7 and 11, namely:

power operated pumps, namely, flexible impeller pumps, centrifugal pumps, rotary vane pumps, macerator pumps, bilge pumps, engine cooling pumps, oil drain pumps, diaphragm pumps, solids handling pumps, vacuum pumps, split case pumps, self-priming pumps, sludge pumps, process pumps, magnetic drive pumps, chemical service pumps, slurry pumps, corrosive service pumps, fire pumps, boiler feed pumps and drum pumps and valves being parts of machines, namely, knife gate balance valves, slide gate pressure relief valves, diaphragm valves and ball flow control valves (Class 7)

blowdown valves, flow control valves, pressure relief valves, valves for boiler burners and boiler ignitors, custom fabricated blowdown valves, flow control valves, pressure relief valves, valve for handling of process fluids for the waste water industry, heating and cooling equipment and components, namely, booster pumps, circulating pumps, compression tanks, air separators, air vents, boiler check valves, water pressure relief and reducing valves, balance valves, suction diffusers, sediment air removal separators, combination check valves, shut off valves, flow control valves, close coupled pumps, double suction pumps, split case pumps, wet pit pumps, multi-stage pumps, heat exchangers, water tank heaters, pumps for heating, cooling and refrigeration; hot water and cooling systems comprising pumps, valves, pump controllers, flow meters, all sold as a unit, heating and cooling regulators, namely, traps and strainers for water condensation for air cooling units (Class 11)

- e. U.S. Registration No 2,511,544 for the Engineered Blocks ITT Mark claiming first use at least as early as September 1998, and registered November 27, 2001, in connection with services in International Class 35, namely:

on-line rendering of advice and providing information concerning products in the fluid handling, fluid technology, electrical, electronic and automotive fields over a world-wide computer network.

21. Plaintiff ITTC has numerous subsidiaries and affiliates worldwide, many of which include the ITT[®] mark as part of the company name, as shown in Exhibit 2, which is the relevant exhibit from ITTC's 2013 10-K form.

22. Through years of continuous use on a wide variety of goods and services throughout the United States and the world, the inherent distinctiveness of the **ITT**[®] mark, and the degree of recognition of the mark in the channels of trade in which ITTMEL's licensees do business, the **ITT**[®] mark has become a distinctive and famous mark in the United States and throughout much of the world.

THE DEFENDANT

23. On information and belief, Defendant US ITT Machinery Limited (hereinafter "USITT") is a corporation organized and existing under the laws of the State of New York having a DOS Process Address of American Certification Institute, 9460 Telstar Ave, Suite 5, El Monte, California, 91731.

24. Official New York Department of State records show that USITT was incorporated on March 12, 2012. Copies of the Official incorporation documents are attached as Exhibit 3.

25. "Ning Chen" is the name listed in the "Incorporator" information on US ITT's Certificate of Incorporation filed with the State of New York. Ning Chen's address is listed as 228 Park Ave., S #85556, New York, NY 10003 ("the Park Avenue Address"), which is an address that USITT has also represented to be its business or factory address, as detailed further below. The Certificate of Incorporation is listed as "filed by" Ning Chen, at the address of 3592 Rosemead Blvd., Suite 220, Rosemead, CA 91779 (the "Rosemead Address").

26. On information and belief, the Park Avenue Address is the location of an Earth Class Mail location.

27. On information and belief, the Rosemead Address is the address of a UPS Store.

28. On information and belief, Defendant and/or its affiliates have also distributed to commercial partners official-looking incorporation documents, which on information and belief

have been falsified, bearing the name “Balasubr Amanian” as the “incorporator” and the name of the individual by whom the certificate of incorporation was filed, listing the same Park Avenue Address and Rosemead Address, respectively. Copies of these documents are attached as Exhibit 6, as discussed further below.

29. On information and belief, both Ning Chen and Balasubr Amanian are fictitious names adopted fraudulently for the purpose of concealing the true identity of the individuals behind the incorporation and operation of USITT.

JURISDICTION AND VENUE

30. Defendant is a New York corporation that, on information and belief, represents to others that it has a business address and engages in business activities in the State of New York.

31. Use of the ITT trademark by Defendant and/or its affiliates anywhere in the world constitutes a tortious act that causes injury to ITTC, who is a licensed user of the ITT mark, the parent company of ITTMEL, and has its principal place of business in New York.

32. This Court has subject matter jurisdiction of Plaintiffs’ claims against Defendant under 28 U.S.C. §§ 1331 and 1338 and 15 U.S.C. §§ 1116 and 1121, in that this action arises under the trademark laws of the United States, 15 U.S.C. §§ 1114, 1117, and 1125.

33. This Court also has jurisdiction over Plaintiffs’ state law claims under the principles of supplemental jurisdiction under 28 U.S.C. § 1367.

34. Venue is proper in this district under 28 U.S.C. §§ 1391(b) and (c).

STATEMENT OF FACTS

Plaintiffs' Extensive and Longstanding Use of the Mark ITT

35. Plaintiffs, their subsidiaries, and/or affiliated companies have used the **ITT**[®] mark continuously (through predecessors and licensees) since the 1920's on a broad range of products and services.

36. Plaintiffs' earliest predecessor in interest, International Telephone and Telegraph Corporation, was commonly referred to as ITT.

37. In 1962, International Telephone and Telegraph Corporation officially changed its name to ITT Corporation.

38. In December 1995, ITT Corporation was restructured into three separate companies, namely ITT Indiana, Inc., ITT Hartford Group Inc. and a newly incorporated ITT Corporation ("1995 ITT Corp."). 1995 ITT Corp. included as one of its subsidiaries ITT Sheraton Corporation. The original ITT Corporation was merged into ITT Indiana, Inc., which changed its name to ITT Industries, Inc. and operated under the trade name ITT Industries until July 1, 2006, when it changed its name to ITT Corporation, which remains the official corporate name of Plaintiff ITTC today.

39. From December 1995 until November 1999, the **ITT**[®] mark was owned by ITT Sheraton Corporation (a wholly owned subsidiary of the 1995 ITT Corp.), which licensed to ITT Industries, Inc. and ITT Hartford Group Inc. the right to use the **ITT**[®] mark for a broad range of products and services.

40. In November 1999, ITT Sheraton Corporation assigned to Plaintiff ITTMEL ownership of the **ITT**[®] mark and numerous other marks incorporating the term **ITT**, the outstanding licenses thereto, and the goodwill associated therewith.

41. Since 2006, when ITTC changed its corporate name from ITT Industries, Inc. to ITT Corporation, it has used the following form of the **ITT**[®] mark in trade, referred to herein as the “Engineered Blocks ITT Composite Logo,” and shown in the print out attached as Exhibit 4 of ITTC’s home page at www.itt.com:



Plaintiffs typically use the “Engineered Blocks” in the characteristic color shown above, although its U.S. registrations are not limited to any particular color.

42. Plaintiffs, their subsidiaries, and/or affiliated companies frequently use the Engineered Blocks ITT Composite Logo in conjunction with the tagline ENGINEERED FOR LIFE, a trademark owned by ITTMEL and registered globally in most of the same countries and classes as the ITT mark, including at least in the US and China in class 7 for various types of pumps.

43. Prior to the 2011 spin-off of Xylem, ITTC had a Chinese subsidiary named ITT (Nanjing) Co., Ltd., which was divested to Xylem and subsequently changed its name to Xylem (Nanjing) Co., Ltd.

44. Exelis and Xylem had temporary, transitional licenses to use the **ITT** mark for a short time immediately following their spin-off from ITTC in October 2011, all of which have now expired.

45. Goulds Pumps, Inc. (“Goulds”) is a wholly owned subsidiary of ITTC and the owner of the trademark **GOULDS**[®] in connection with pumps and other related products. ITTC makes and sells **GOULDS**[®] pumps for industrial applications. Goulds licenses to Xylem the right to use the **GOULDS**[®] trademark in connection with its Goulds Water Technologies business unit,

which makes and sells pumps and related products for agricultural, building trades, commercial and light industrial water and wastewater applications.

46. Plaintiff ITTMEL, its predecessors in interest, and their licensees have used and continue to use the **ITT**[®] mark and numerous other trade names and marks incorporating the term **ITT** extensively throughout the world on a wide variety of goods and services including but not limited to pumps.

47. The **ITT**[®] mark is advertised extensively throughout the world via print, television, radio and other advertising. Plaintiffs, their subsidiaries, and/or affiliated companies have expended large amounts of time and resources in connection with the advertising and promotion of goods and services offered under the **ITT**[®] mark.

48. In 2013, ITTC, its subsidiaries and/or affiliated companies reported annual revenue of nearly USD \$2.5 Billion resulting from its products and services offered in connection with the **ITT**[®] mark.

49. Over the years, ITTC, its subsidiaries, and/or affiliated companies have spent significant sums on advertising related to goods and services bearing the **ITT**[®] mark.

Defendant's Infringement

50. Through various means, Plaintiffs have become aware of a website operating in connection with the domain name <njitt.com>, containing content primarily in Chinese but identifying in English the operator of the website as "ITT (Nanjing) Co., Ltd." or "ITT (Nanjing) Fluid Technology Co., Ltd." in different incarnations. The home page of this website in a first incarnation displayed the Engineered Blocks ITT Composite Logo on one side of the page and the term "US ITT," underneath a logo comprising a stylized **ITT** inside an ellipse on the other side of the page. In a second incarnation, the Engineered Blocks ITT Composite Logo was replaced by

“ITT” in standard characters, and in a third incarnation the ITT on the left side has been removed. The email contact listed on the web page is “usitt_pum@163.com.” WHOIS information for the domain name is unintelligible in English. A print out of the three incarnations of the <njitt.com> home page in Chinese, along with a machine translation in English created using Google® Translate of an archived copy of the first incarnation of the webpage retrieved from archive.org, and the WHOIS information are attached as Exhibit 5.

51. The <njitt.com> website advertises pumps and valves that are identical to pumps and valves that ITTC and Xylem offer for sale, and features photographs of ITTC and Xylem products.

52. The <njitt.com> website alleges a false historical connection to Plaintiffs and their affiliates, which (machine translated from Chinese) reads in part:

ITT (Nanjing) Co., Ltd. is a 1986 ranking by international pump industry leading US GOULDS company joint venture with the Chinese, by the United States GOULDS holding company. Early in 1997 by the international reputation of large multinational U.S. ITT Industries acquired the American GOULDS company, to become the world's largest pump company. Nanjing Goulds Pumps Co. also will be incorporated into the U.S. company ITT Industries Fluid Technology. December 2003, the U.S. ITT Industries acquired all the shares China's Nanjing Goulds Pumps ITT Industries . . .

53. Attached as Exhibit 6 are documents that, on information and belief, Defendant and/or its affiliates have falsified and misrepresented to others to be the official Certificate of Incorporation documents issued by the New York State Department of State for USITT, listing Balasubr Amanian at the Park Avenue Address in the “Incorporator Information,” and purporting to be “filed by” Balasubr Amanian at the Rosemead Address. All three of the documents that comprise this collection of documents bear a stamp that reads “*For and on behalf of* US ITT MACHINERY LIMITED” (“the US ITT Stamp”).

54. Attached as Exhibit 7 is another document that, on information and belief, Defendant and/or its affiliates have provided and/or are providing to others, purported to be a “Manufacturer’s Authorization” dated 01-08-2012, bearing the US ITT Stamp on -letterhead bearing the mark ITT above a stilted variation on the Park Avenue Address, namely “New York Address: 8# New York Park Road 228, New York, USA.” This fraudulent Manufacturer’s Authorization states:

US ITT MACHINERY LIMITED hereby authorize Nanjing Pum fluid equipment limited company as the US ITT MACHINERY LIMITED agents, franchise sales of US ITT products, and be binding on us.” [sic]

55. Attached as Exhibit 8 is another document that, on information and belief, Defendant and/or its affiliates have provided and/or are providing to others, namely a brochure which features on the back a depiction of a Manufacturer’s Authorization similar to but not identical to that attached in Exhibit 7, bearing the US ITT Stamp on letterhead featuring the ITT mark above an address variation styled as “New York Address: New York city New York Park Road 228.” Below the Manufacturer’s Authorization depiction, the brochure lists “US ITT MACHINERY LIMITED” and a “Factory Address” at “New York city New York Park Road 228.” The front of the brochure features the mark US ITT in combination with the tagline “Let’s Solve Water.” The mark XYLEM LETS SOLVE WATER is a registered trademark of Xylem IP Holdings LLC, a subsidiary of Xylem.

56. On information and belief, the documents attached as Exhibits 6-8 have been created and knowingly used by Defendant and/or its affiliates to “corroborate” and further the misrepresentations by Defendant and/or its affiliates to commercial partners, foreign governments, and/or consumers as to the history and nature of USITT and its affiliation with Plaintiffs.

57. Also while investigating the ITT Nanjing website, Plaintiffs became aware of website content associated with the domain name <njpum.com>. The Chinese language home page displays “US ITT Machinery Limited” in English with Chinese characters above it at the top of the home page. The machine translation of the Chinese characters reads “Pam Fluid Equipment Co., Ltd. Nanjing.” The email contact listed on the web page is “usitt_pum@163.com.” The WHOIS information for <njpum.com> domain name lists “Hu Yuzhu” as the “Registrant Name,” “Guangdong Foshan water pump factory” as the “Registrant Organization,” and “us itt machinery limited” as the “Registrant Street” in the Registrant information. A link titled (machine translated from Chinese) “About Us” leads to a page which contains false information about the alleged connection between US ITT, PUM, and Plaintiffs, including the following (machine translated from Chinese):

Nanjing Pam Fluid Equipment Co., Ltd. is located in Nanjing, Jiangsu Province, the company was founded in 2009, the company strong, is US ITT MACHINERY LIMITED imported pumps integrators in China, the main water pump series, sewage pump series.

... So far, after 70 years of development, PUM company has 4,500 employees worldwide, distributed in over 20 countries around the world, PUM become the world's most wellknown pump brands. 2002, ITT Group's acquisition of the PUM company, PUM U.S. factory was renamed US ITT MACHINERY LIMITED.

On information and belief, US ITT MACHINERY LIMITED was not founded in 2009 and has no U.S. factory, all of the information relating to PUM company is false, and the reference to “ITT Group” and facts reminiscent of Plaintiffs’ actual history are intended to fraudulently suggest and convey a relationship with Plaintiffs, when no such relationship exists. A print out of the <njpum.com> home page is attached as Exhibit 9, along with a machine translation in English created using Google® Translate, and the WHOIS record for <njpum.com>.

58. Chinese trademark registration No. 10991459, registered September 21, 2013, for the mark PUM in class 7, lists the owner name and address as US ITT MACHINERY LIMITED at the Park Avenue Address, and lists the following goods (machine translated from Chinese) in the identification of goods and services:

Centrifuges; centrifugal pump; pumps (machines); heating system pump; pumps (machines); air compressor pump; valves (parts of machines); trap (gas-return valve); compressors (machines); compression, pumping suction and transport grain blower or fan

The online content associated with this page (as machine translated into English) fraudulently induces others to sign contracts for “brand licensing,” referencing “exclusive distribution [of] ITT imported pumps,” and representing that by entering into such a contract, the licensee would become an “agent for the brand recognition of ITT headquarters” and will have “joined ITT Pump Company.” Attached as Exhibit 10 is a screen shot, and machine translation into English thereof, for the <njpum.com> website, showing the Chinese trademark registration for PUM.

59. Plaintiffs have also become aware of website content associated with the domain name <nanjingitt.com>, featuring the Engineered Blocks ITT mark in one incarnation, the ITT® mark in another incarnation. The email contact listed on the web page is “usitt_pum@163.com.” The WHOIS Registrant information for <nanjingitt.com> lists “Hu Yuzhu” as the “Registrant Name,” “Guangdong Foshan water pump factory” as the “Registrant Organization,” and “US ITT Machinery Limited” as the “Registrant Street” in the Registrant information. The website content includes a link titled “US ITT MACHINERY LIMITED origin” (machine translated from Chinese) which contains false information about the alleged connection between US ITT, PUM, and Plaintiffs. excerpts of which include (as machine translated):

U.S. ITT Group is an international pump manufacturing and sales company, among the best in the world, 500, 2011 annual sales of approximately \$ 15 billion

and employs more than 40,000 employees worldwide. Headquartered in White Plains, New York (WHITE PLAIN) . . .

Headquartered in the United States of America, New York PUM company was founded in 1942. 70 years ago, PUM founder Mr. Blake. Peters at that time due to the great development of the chemical industry caused by the war, in New York built the first water ring vacuum pump, which is the PUM to become the world's largest manufacturer of pumps The most important step towards a development process. ----- So far, after 70 years of development, PUM company has more than 4,500 employees worldwide, distributed in over 20 countries around the world, PUM has become the world's most renowned pump brands. 2002, ITT Group's acquisition of the PUM company, PUM U.S. factory was renamed US ITT MACHINERY LIMITED . . .

PUM company's production facilities are located in the United States in New York, in research and development center in New York has a strong technical force, so that the pump technology in the field of PUM has been dominated by the world's leading position.

Outside North America, Europe PUM company headquarters are located in London, England, under the sales, assembly and warehousing, factories located in the UK, Africa and the Middle East; rely ITT Group, powerful resources, PUM innovate, to produce high-efficiency, high-quality products, fully meet the needs of people around the world living and industrial production, PUM has been leading in the field of global water pump.

US ITT MACHINERY LIMITED employs 480 people, with all kinds of professional and technical personnel 275 people, the company has perfect casting, machining, assembly lines and advanced inspection, testing and data processing systems. The company also owns nearly 200 kinds of modern equipment and 12 sets of CNC machining centers.

US ITT MACHINERY LIMITED main products are: long axis of the deep well pump; single suction end suction centrifugal pump; water ring vacuum pump; chemical process pumps; double suction centrifugal pump; horizontal, vertical multistage centrifugal pump; submersible pumps and other pumps products. Widely used in hydropower (technical water supply, drainage maintenance and leakage, fire water supply, drainage and other outside plant), thermal power plants (supply pump house, integrated pump house, complex water systems, ash yard sprinkler systems, etc.), city buildings, residential, municipal, industrial and agricultural areas.

On information and belief, all of the representations in the foregoing regarding US ITT MACHINERY LIMITED and PUM are untrue, and the opening statement regarding "U.S. ITT

Group” refers to factual information reminiscent of Plaintiffs’ actual history, despite the fact that Plaintiffs operate no formal entity known as “U.S. ITT Group.” Print outs of the <nanjingitt.com> home page in both incarnations and US ITT MACHINERY origin pages are attached as Exhibit 11, along with machine translations in English created using Google® Translate, and the WHOIS record for < nanjingitt.com>.

60. Plaintiffs have also become aware of website content associated with the domain name <ittnanjing.com>, featuring the ITT® mark in a first incarnation and “USITT” in a second incarnation, and listing “usitt_pum@163.com” as the contact email. The WHOIS Registrant information for <ittnanjing.com> lists “Hu Yuzhu” as the “Registrant Name,” “Guangdong Foshan water pump factory” as the “Registrant Organization,” and “US ITT Machinery Limited” as the “Registrant Street” in the Registrant information. The website home page includes references “美国ITT” which translates to “US ITT,” and text that falsely suggests a relationship with ITTC. Print outs of the <ittnanjing.com> home page and product pages in the first incarnation are attached as Exhibit 12, along with machine translations in English created using Google® Translate, and the WHOIS record for <ittnanjing.com>.

61. Incorporation records for a first Hong Kong company named ITT (H.K.) CO., LIMITED, attached as Exhibit 13, lists USITT at the Park Avenue Address as the “Founding Member” and bears the US ITT Stamp as the signature for the Statement of Founder Member, dated 27 Dec-2013. This company’s name was changed to ITT (HONGKONG) INDUSTRIAL GROUP CO., LIMITED (“ITT HK INDUSTRIAL”) per a Certificate of Change of Name issued 21 March 2014. The Director of ITT HK INDUSTRIAL is listed as “Hu Yuzhu.”

62. Incorporation records for a second Hong Kong company named ITT (H.K.) CO., LIMITED (“ITT HK CO”) , attached as Exhibit 14, show incorporation on 31 March 2014,

initially listing Wong Shui Cheung as the Director, later changed to Hu Yuzhu as the Director pursuant to documents filed 13 June 2014.

63. On information and belief, ITT HK CO has filed trademark applications for the marks GOULDS and BELL & GOSSETT in China, a copy of which is attached as Exhibit 15. **GOULDS®** is a registered trademark of ITTC's wholly owned subsidiary, Goulds Pumps Incorporated. **BELL & GOSSETT®** is a registered trademark formerly owned by ITTC, now owned by Xylem.

64. Plaintiffs are aware of at least one instance, documented in photographs attached as Exhibit 16, in which one or more pumps bearing the marking "PUM US ITT MACHINERY LIMITED" was distributed in China, along with literature bearing the mark "US ITT INDUSTRIES" and a "Quality Certification" card bearing the name "US ITT machinery Limited" and "PUM®US ITT ENGINEERED FOR LIFE." On information and belief, the pump, literature, and "Quality Certification" card are counterfeit goods not made or authorized to be made by Plaintiffs, their subsidiaries, or affiliated companies.

65. Online informational materials posted by Defendant or its affiliates, including at least content posted in connection with the domain names <njitt.com>, <nanjingitt.com>, <njpum.com>, and <ittnanjing.com>, constitutes provision of a service in the nature of providing information, viewable in the United States, concerning products in the fluid handling and fluid technology fields (pumps) and providing consumer information regarding the use, maintenance, and repair of fluid handling control and transfer products and equipment (pumps). In addition to Exhibits 5, 9, 11, and 12, see also informational materials in Chinese and machine translations provided as Exhibit 17.

66. On information and belief, USITT does not manufacture any products and has no “factory” in the United States,

67. On information and belief, USITT was incorporated in the State of New York for the sole purpose of fraudulently passing off USITT as having an affiliation with Plaintiffs in the United States, and to issue licenses and/or authorizations to affiliates of Defendant. Such affiliates are either knowing participants in a conspiracy to trade on the goodwill of the ITT® mark and other trademarks owned by or historically associated with Plaintiffs, or are unwitting victims that have been induced into infringing by Defendants in reliance upon fraudulent licenses and/or authorizations provided by USITT as evidence that goods sold or offered for sale by agents of USITT are goods manufactured or authorized by Plaintiffs.

68. On information and belief, the fraudulent and infringing incorporation of USITT in the United States has been used in commerce between the United States and other countries to support counterfeiting of Plaintiff’s products.

COUNT I

Trademark Infringement under 15 U.S.C. § 1114

69. All of the allegations of paragraphs 1-68 are incorporated herein by reference.

70. Use of the ITT® mark by Defendant, in association with representations regarding the right to convey licenses to use the ITT® mark in connection with pumps and other goods and services identical to those for which Plaintiffs ITT® mark is registered, constitutes use in commerce between the United States and one or more foreign countries, including at least China and Hong Kong, of a colorable imitation of the ITT® mark that is likely to cause confusion or mistake, or to deceive consumers as to an affiliation, connection or association of USITT with Plaintiffs or as to origin, sponsorship, or approval of USITT’s commercial activities by Plaintiffs.

71. Defendant's acts have been committed with knowledge and intent to use such imitation to cause confusion, or to cause mistake, or to deceive.

COUNT II

Counterfeiting under 15 U.S.C. § 1114(a) and 1117(c)

72. All of the allegations of paragraphs 1-71 are incorporated herein by reference.

73. Defendant and/or its affiliates have in one or more incarnations of the online content associated with <njitt.com>, <njpum.com>, <nanjingitt.com> and/or <ittnanjing.com> posted content viewable in the United States constituting informational materials featuring one or more of Plaintiffs' **ITT**[®] mark and the Engineered Blocks ITT mark, independently or in the form of the Engineered Blocks ITT Composite Logo, in the identical form as registered and as actually used by Plaintiff in the marketplace (including in Plaintiff's characteristic color) and in connection with the same or similar services for which Plaintiffs' marks are registered and used. Specifically, Defendant and/or its affiliates have provided in the United States the service of *providing consumer information and advice via the world wide computer network regarding the use, maintenance, and repair of fluid handling control and transfer products and equipment*" and/or *on-line rendering of advice and providing information concerning products in the fluid handling, and fluid technology fields over a world-wide computer network*.

74. Specifically Defendant and/or its affiliates used the Engineered Blocks ITT Composite Logo as a counterfeit mark in the header of a first incarnation of the <njitt.com> website (Exhibit 5, pages dated 9/30/2014), and used the **ITT**[®] mark in standard characters as a counterfeit mark in the header of a second incarnation of the <njitt.com> website (Exhibit 5, pages dated 8/21/2014). Defendant and/or its affiliates used the Engineered Blocks **ITT**[®] mark as a counterfeit mark in the header of a first incarnation of the <nanjingitt.com> website (Exhibit 11,

pages dated 8/7/2014), and a counterfeit of the **ITT**[®] mark in standard characters in the header of a second incarnation of the <nanjingitt.com> website (See Exhibit 11, pages dated 8/21/2014).

Defendant and/or its affiliates used the **ITT**[®] mark in standard characters as a counterfeit mark in the header of a first incarnation of the <ittnanjing.com> website (Exhibit 12).

75. Although Defendant and/or its affiliates have transitioned the headers of the aforementioned websites, as shown in Exhibit 17, the substantive content thereof has remained essentially the same, meaning that any documented use in connection with services now was indisputably present in the earlier incarnations. Furthermore, continued use by Defendant and/or its affiliates of the **ITT**[®] mark in combination with other terms in the current incarnations of the aforementioned websites, including in the form “US ITT” or “ITT (Nanjing)” or “US ITT MACHINERY LIMITED” (See Exhibit 17) constitutes use of a counterfeit of the **ITT**[®] mark in the identical form (“ITT” in standard characters) as registered and used by Plaintiffs. Plaintiffs extensively use the ITT mark in standard characters, including in the trade names of subsidiaries.

76. Defendant is not now, nor has it ever been, authorized to use, license, authorize, or otherwise induce affiliates to use, Plaintiff’s **ITT**[®] Mark in connection with informational materials not associated with Plaintiff.

77. Use of the identical **ITT**[®] mark in connection with the online content associated with the domain names <njitt.com>, <njpum.com>, <nanjingitt.com> and <ittnanjing.com> is likely to cause confusion.

78. Defendant has intentionally used or authorized, licensed, or otherwise induced or contributed to the use of the **ITT**[®] mark in connection with the <njitt.com>, <njpum.com>, <nanjingitt.com> and/or <ittnanjing.com> web pages.

79. Defendant had knowledge that the use of the ITT® mark in connection with the <njitt.com>, <njpum.com>, <nanjingitt.com> and/or <ittnanjing.com> web pages was not genuine use authorized by Plaintiffs.

COUNT III

Federal Unfair Competition under 15 U.S.C. § 1125

80. All of the allegations of paragraphs 1-79 are incorporated herein by reference.

81. Defendant has falsely represented, and continue to falsely represent, that USITT is authorized to use the ITT® mark and affiliated with Plaintiffs.

82. As a result of such false and misleading representations, Defendant has conspired with others to infringe the ITT® mark as part of an enterprise that, on information and belief, is selling and offering for sale counterfeit or unauthorized ITT products in China and Hong Kong.

83. Defendant's aforesaid actions have been taken willfully and for the express purpose of trading on the goodwill that ITTMEL and its predecessors in interest have built up in the ITT® mark in connection with high quality goods and services, including pumps.

84. Defendant's aforesaid actions and threatened actions violate ITTMEL's rights under 15 U.S.C. § 1125(a) and unless enjoined will continue to cause irreparable harm to Plaintiffs and the ITT® mark.

COUNT IV

Federal Trademark Dilution under 15 U.S.C. § 1125(c)

85. All of the allegations of paragraphs 1-84 are incorporated herein by reference.

86. The ITT® mark is inherently distinctive, has been used in connection with a wide variety of goods and services by Plaintiffs and their predecessors and licensees for over 50 years, has been heavily advertised and publicized over that 50-year period, is used and is well-recognized

worldwide in multiple channels of trade, and is registered on the Principal Register of the United States Patent and Trademark Office in multiple formats totaling over 40 separate registrations owned by ITTMEL. Accordingly, Plaintiff's **ITT** mark is distinctive and famous.

87. The mere fact that Defendant's corporate name contains the **ITT**[®] mark has lessened the capacity of the **ITT**[®] mark to identify and distinguish Plaintiffs' goods and services.

88. On information and belief, Defendant has engaged in the business of providing licenses or authorizations to others to use the **ITT**[®] mark. This act of licensing the **ITT**[®] mark to others comprises a service provided to others in commerce between the United States and one or more foreign countries, including at least China and Hong Kong.

89. Defendant's unlawful, infringing, and dilutive acts were commenced and committed after ITTMEL's marks became famous.

90. ITTMEL's loss of control of the **ITT**[®] mark by virtue of Defendant's continued use of the **ITT**[®] mark in its corporate name, subjects the **ITT**[®] mark to potential tarnishment and blurring beyond its control that will irreparably harm Plaintiffs.

COUNT V

Federal Cyberpiracy under 15 U.S.C. § 1125(d)

91. All of the allegations of paragraphs 1-90 are incorporated herein by reference.

92. The Registrant Information for <nanjingitt.com> lists "Hu Yuzhu" as the "Registrant Name," "Guangdong Foshan water pump factory" as the "Registrant Organization," and "US ITT Machinery Limited" as the "Registrant Street" in the Registrant information.

93. The WHOIS Registrant information for <ittnanjing.com> lists "Hu Yuzhu" as the "Registrant Name," "Guangdong Foshan water pump factory" as the "Registrant Organization," and "US ITT Machinery Limited" as the "Registrant Street" in the Registrant information.

94. Listing of US ITT Machinery Limited in the Registrant information for the foregoing domain names constitutes an admission that Defendant is the domain name registrant or Registrant's authorized licensee.

95. The domain names <nanjingitt.com> and <ittnanjing.com> contain Plaintiffs' ITT[®] mark in its entirety and are therefore identical in part and confusingly similar to Plaintiffs' ITT[®] mark.

96. Plaintiffs' ITT[®] mark is distinctive and famous and was distinctive and famous at the time the <nanjingitt.com> and <ittnanjing.com> domain names were registered by Defendant.

97. The online content associated with the domain name <nanjingitt.com> and <ittnanjing.com> (a) comprises informational material referring to Defendant by name and relating to fluid handling equipment, namely pumps, (b) comprises advertising for goods that on information and belief are counterfeit ITT[®] goods, and (c) is intended to mislead the public as to an association between Defendant and its affiliates (i.e. the domain name Registrant) with Plaintiffs.

98. Defendant has no legitimate right to use, and no legitimate right to authorize, license, or otherwise induce its affiliates to use, the ITT[®] mark in connection with informational materials relating to pumps or in advertisements for counterfeit ITT[®] goods

99. Willful use by Defendant and/or Defendant's affiliates of the <nanjingitt.com> and <ittnanjing.com> domain names has been in bad faith with an intent to profit from the ITT[®] mark, by diverting consumers from Plaintiff's <itt.com> website that advertises Plaintiffs goods and services, to websites operated by Defendant and/or Defendant's affiliates advertising competing, counterfeit goods and services produced or authorized by Defendant.

100. Willful use by Defendant and/or Defendant's affiliates, of infringing domain names to divert consumers to websites operated by, in conspiracy with, or under the authority or license of Defendant is for commercial gain and creates a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the <nanjingitt.com> and <ittnanjing.com> sites by Plaintiff.

COUNT VI

Use of Name or Address with Intent to Deceive in Violation of N.Y. Gen. Bus. Law § 133

101. All of the allegations of paragraphs 1-100 are incorporated herein by reference.

102. On information and belief, Defendant has assumed, adopted and used the ITT[®] mark as part of its corporate name and trade name for advertising purposes and for the purposes of trade with an intent to mislead and deceive commercial partners and the consuming public as to the identity of Defendant and as to Defendant's association with Plaintiffs.

103. On information and belief, Defendant has adopted and used the Park Avenue address and variations thereof (228 Park Road) – an address and designation of location in the New York State community located on the same street as the 320 Park Avenue former address of Plaintiffs' predecessor in interest – for advertising purposes and for the purposes of trade with an intent to mislead and deceive commercial partners and the consuming public as to the true address or location of Defendant.

104. Plaintiffs have no adequate remedy at law.

COUNT VII

Trademark Dilution under NY Gen. Bus. Law § 360

105. All of the allegations of paragraphs 1-104 are incorporated herein by reference.

106. Plaintiff's ITT[®] mark is distinctive and capable of dilution.

107. Defendant's use of the **ITT**[®] mark in its corporate name subjects the **ITT**[®] mark to tarnishment and blurring beyond Plaintiffs' control that will irreparably harm Plaintiffs by diminishing the selling power of the distinctive **ITT**[®] mark in the minds of the consuming public.

COUNT VIII

Common Law Trademark Infringement

108. All of the allegations of paragraphs 1-107 are incorporated herein by reference.

109. Plaintiff's **ITT**[®] mark is valid and legally protectable.

110. Defendant's use of the trade name US ITT Machinery is likely to cause confusion with the **ITT**[®] mark.

111. Use by Defendant and Defendant's affiliates of the **ITT**[®] mark and variations thereof in online content is likely to cause confusion.

COUNT IX

Common Law Unfair Competition

112. All of the allegations of paragraphs 1-111 are incorporated herein by reference.

113. Defendant's acts of (a) registering US ITT Machinery as a corporate name in the State of New York and (b) using that corporate name to impersonate Plaintiffs, are causing and are likely to further cause substantial irreparable harm and substantial injury and damage to Plaintiffs' business, reputation, trademarks and good will.

114. By reason of Defendant's foregoing conduct, Defendant has engaged in unfair competition with Plaintiffs, all to the continuing damage and injury of Plaintiffs.

DEMAND FOR JURY TRIAL

Demand is hereby made for a trial by jury as to all issues pursuant to Fed. R. Civ. P. 38(b).

PRAYER FOR RELIEF

In view of the foregoing, Plaintiffs ask that this Court grant relief as follows:

- A. That Defendant be preliminarily and permanently enjoined from use of, or contributing to or inducing the use by affiliates or third parties of, the **ITT**[®] mark or any confusingly similar designation, alone or in combination with other words, including but not limited to designations constituting or containing “US ITT Machinery,” “US ITT,” “ITT (Nanjing)” and “USITT,” as a trademark, service mark, trade name, Internet domain name, or component thereof, or otherwise to market, advertise, or identify Defendant or their respective goods and services;
- B. That Defendant be preliminarily and permanently enjoined from engaging in activities, or contributing to or inducing the activities of affiliates or third parties, that dilute or tarnish the **ITT**[®] mark or in any way injure Plaintiffs’ business reputation;
- C. That Defendant be preliminarily and permanently enjoined from unfairly competing with Plaintiffs or engaging in any activity, or contributing to or inducing the activities of affiliates or third parties, which has a tendency to dilute, tarnish, or otherwise irreparably harm and damage the **ITT**[®] mark and the goodwill associated with the **ITT**[®] mark;
- D. That Defendant be required to immediately disclaim all rights in the **ITT**[®] mark and to file with this court, serve on Plaintiffs, and provide proof that it has served on all affiliates, agents, and other third parties with which it has done business, within thirty (30) days, a writing under oath, setting forth Defendant’s acknowledgement that Defendant is not affiliated with Plaintiffs, that Defendant has no rights in the **ITT**[®] mark anywhere in the world, and that any authorization to act on behalf of Defendant does not convey any right to use the **ITT**[®] mark, any mark confusingly similar thereto, or any mark owned or formerly owned by Plaintiffs;

E. That Defendant be required to account to Plaintiffs or to pay over to Plaintiffs an amount equal to all gains, profits, and advantages derived by any of the Defendant by reason of the infringement of the ITT® mark, and other marks owned by Plaintiffs, and acts of unfair competition against Plaintiff;

F. That, should the Court find the accounting of gains, profits, and advantages stated in Paragraph E inadequate compensation for Plaintiffs, Defendant be required to pay Plaintiffs such sum as the Court shall find just according to the willful nature of Defendant's unlawful acts;

G. That the amounts awarded be trebled pursuant to 15 U.S.C. § 1117;

H. That Defendant be required to pay over to Plaintiffs a sum equal to the damages for the injury to the goodwill associated with Plaintiffs' marks;

I. That ITT be awarded the cost of this action and attorneys' fees pursuant to 15 U.S.C. § 1117;

J. That Defendant be ordered to change the corporate name of USITT to a name that does not include the sequential letters ITT and that does not comprise words capable of forming the acronym ITT in whole or in part;

K. That the incorporation of USITT be declared *void ab initio* and its certificate of incorporation cancelled;

L. That Defendant be enjoined from representing that it currently has a "factory address" at 228 Park Road, anywhere in the State of New York, or anywhere in the United States;

M. That Plaintiffs be awarded mandatory treble damages and attorneys fees for Defendant's acts of counterfeiting and/or its inducement or contributory activity relating to

counterfeiting by its affiliates, or in the alternative, statutory damages of \$1,000,000 per counterfeit mark per type of goods or services for Defendants' willful counterfeiting under 35 U.S.C. § 1117(c);

N. That Defendants be ordered to destroy and to instruct its affiliates to destroy any counterfeit or otherwise infringing goods in its possession, including web pages bearing the **ITT**® Mark in any form;

O. That Plaintiffs be awarded statutory damages of \$100,000 for each domain name registered by Defendant or its affiliates in bad faith and that infringe the **ITT**® Mark under 35 U.S.C. § 1117(d);

P. That the Court order such other and further relief as may be appropriate.

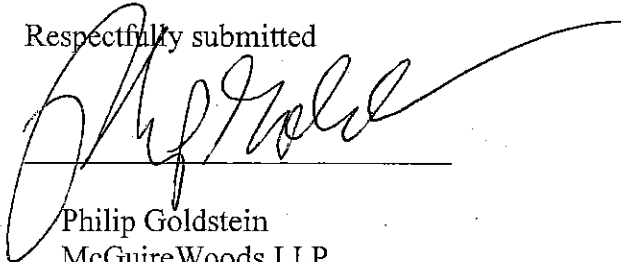
Dated: October 1, 2014
New York, New York

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Respectfully submitted



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